



*Sum Caroli Whibley*



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LEADING CASES DONE INTO ENGLISH





# LEADING CASES

DONE INTO ENGLISH

AND OTHER DIVERSIONS

BY

SIR FREDERICK POLLOCK, BART.

*Tibullus.* How now, Ovid ! Law cases in verse ?

*Ovid.* Troth, if I live, I will new dress the law  
In sprightly Poesy's habiliments.

BEN JONSON, *The Poetaster*, Act I.

London

MACMILLAN AND CO.

AND NEW YORK

1892

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*The first Edition of "Leading Cases" was published in July 1876, reprinted September 1876 and in 1877. The other Diversions are now (1892) collected for the first time.*

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TO

ALGERNON CHARLES SWINBURNE

653240



## PREFACE

IN setting my own name to a collection of trifles including several parodies of our recent and living masters in English poetry, I feel that a word of explanation is due. Parody does not, to my mind, imply any want of respect for the original. Rather I would say that, where the original has any real worth and distinction, no parodist can succeed who has not a fairly adequate sense of its distinctive merits. Indignation or contempt may give point to a parody in special cases; there are also parodies which we enjoy simply as grotesques, with little or no thought of their correspondence to the thing parodied. A very few great writers are too universal to give a handle to parody; many who are not obscure give none for an opposite reason, that they lack any prominent character at all.

I believe this doctrine to be sound; but I have

thought it well to secure myself in it by the best possible warrant. This volume is dedicated to Mr. Swinburne: his friendly acceptance is conclusive proof that at least one of our chief poets in this generation holds the same magnanimous view that was held by Scott, Byron, and others in the classical case of the *Rejected Addresses*. I am happy to think that these diversions acquire, by being associated with his name, a title to remembrance independent of their own deserts.

My acknowledgments and thanks are hereby given to the owners of the journals in which several of the miscellaneous pieces now first collected have appeared from time to time.

F. P.

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# LEADING CASES DONE INTO ENGLISH

## I.—THE SIX CARPENTERS' CASE

(1 *Smith, L.C.* 144, 9th ed.)

THIS case befell at four of the clock  
(now listeneth what I shall say),  
and the year was the seventh of James the First,  
on a fine September day.

The birds on the bough sing loud and sing low,  
what trespass shall be *ab initio*.

It was Thomas Newman and five his feres  
(three more would have made them nine),  
and they entered into John Vaux's house,  
that had the Queen's Head to sign.

The birds on the bough sing loud and sing low,  
what trespass shall be *ab initio*.

1 Sept., 7 Jac.,  
in London, in the  
parish of St.  
Giles *extra*  
Cripplegate,  
*hora quarta post*  
*meridiem*.

"Upon the new  
assignment, the  
plaintiff assigned  
the trespass in a  
house called the  
Queen's Head,  
... with a  
common sign at  
the door of the  
said house fixed,  
&c."

They called anon for a quart of wine

(they were carpenters all by trade),

and they drank about till they drank it out,

and when they had drunk they paid.

The birds on the bough sing loud and sing low,  
what trespass shall be *ab initio*.

"One John Ridding, servant of the said John Vaux, at the request of the said defendants, did there then deliver them another quart of wine and a pennyworth of bread, amounting to 8d., and then they there did drink the said wine and eat the bread"—(Et semble que ceo est mervellous petit manger et bever pur vj. homes) — "and upon request did refuse to pay for the same."

One spake this word in John Ridding's ear

(white manchets are sweet and fine):

"Fair sir, we are fain of a penn'orth of bread  
and another quart of wine."

The birds on the bough sing loud and sing low,  
what trespass shall be *ab initio*.

Full lightly thereof they did eat and drink

(to drink is iwis no blame).

"Now tell me eight pennies," quoth Master Vaux;  
but they would not pay the same.

The birds on the bough sing loud and sing low,  
what trespass shall be *ab initio*.

Action of  
trespass.

"Ye have trespassed with force and arms, ye knaves  
(the six be too strong for me),

but your tortious entry shall cost you dear,  
and that the King's Court shall see.

The birds on the bough sing loud and nought low,  
your trespass was wrought *ab initio*."

*Sed per totam curiam* 'twas well resolved

(note, reader, this difference)

that in mere not doing no trespass is,

and John Vaux went empty thence.

The birds on the bough sing loud and sing low,  
no trespass was here *ab initio*.

Second resolution  
in the case.

Ideo prædict' Jo-  
hannes in miseri-  
cordia et defend'  
sine die.

## II.—COGGS *v.* BERNARD

(1 *Sm. L.C.* 201)

HOLT, C. J.—BRETHREN, ye see this cause, and the  
land's need

Laid on this bench this day, whereof our speech  
Should be the sentence of no darkling tongue,  
Seeing we are set amidst this strife of men  
As wardens of a vast and windy shore  
Stormed on with surf and shocks of violent seas,  
To kindle some sure beacon for a sign  
Shining henceforth to seaward ; such a light  
Men look for from this face of most high law,  
Ardent with prophecy, and illuminate  
With fire of constellated precedents,  
Most royal in bounty ; wherefore in this case,  
Sirs, I have much considered, questioning  
Our books within myself, not as the fool

That lightly utters fruits of a light mind,  
But weighing, as this declaration is,  
How it shall lie ; and now for very law,  
Seeing with eyes of clear and equal sight,  
I hold it will, for if a man will take  
This thing upon him, saying he will remove  
His neighbour's goods, and safely lay them down  
From cellar unto cellar, and with sloth  
Of spirit unskilled and lax improvident hand  
Cast those goods down and spoil them, what  
reward

Shall the Court give to this man ? yea, I think  
He shall not hunger or lack for meet reward,  
Though he did look for none, nor were by trade  
A common porter ; such a sixfold coil  
Of divers sorts of bailments, binding men  
With diverse powers to manifold degrees  
Of vigilance and answerable care,  
Is woven and shed around him as a net  
Inevitable, whose woof of ancient wit  
I first of all men born in all this land  
Shall now in seemly wise with ordered speech  
Spread forth, and through this undistinguished  
field

Drive the clean ploughshare of dividing mind,  
Ox-wise returning to and fro, till all  
Be ready for the seed that springs to fruit  
Of judgment ; and the first is where a man  
Hath taken goods to wait the bailor's use  
Hireless, in unrewarded custody  
And bare deposit ; he shall safely walk  
Blameless in equal ways, preserving them  
With equal care like as he doth his own,  
Be it or great or small ; but negligence  
Gross and apparent, seeing an evil mind  
Therein we deem to work his own effect  
Of fraud and malice, to the utmost loss  
Shall surely bind him ; such not doubtful voice  
Of witness clear and consonant is poured  
In ears made meet for hearing from this book  
Of Bracton, who, being old, yet speaketh law  
Most righteous ; nor this once, but twice and  
thrice  
He speaketh, meting fitting measure of care  
To loans gratuitous and commodate,  
Or else for hire, demanding diligence  
Most strait and perfect ; the next case is fourth  
In several station that with borrowed pledge

And pawn invadiate holds the middle way  
 Not facile as the first, nor stern to seek  
 Consummate care, whose weight and whole recoil  
 Even now with one fifth wave of forceful need  
 Falls on that carrier who for all men's use  
 Doth exercise his calling, being bound  
 In all events against all jeopardies,  
 Yea, though an irresistible multitude  
 With might of hands and violent mastery  
 Should make his freight their quarry : what sheer  
                   stress

Of the land's embattled foemen, or the act  
 Of most high Gods hath wrought of ruin, shall  
                   rest

Excusable, that only ; but who takes  
 Like trust by private and peculiar hand,  
 Having reward, shall bear the lighter charge  
 Fulfilled and perfect in such measure of care  
 As reason bids ; and lo, the sixth of kind  
 Of these folk holden of six necessities  
 Is this rewardless one who holdeth goods  
 In simple mandate ; and on him no less  
 His undertaking, and the owner's trust  
 Clothing his promise with investiture

Of apt consideration, lay the load  
Of diligence in duty, that thereby  
The sure sweet common faith of man to man  
Shall lighten level from eyen to equal eyes  
Of one to other, not being desecrate  
In desolate places and dispraised of men.

But ye, of staves compact of cooper's craft  
Most pitiful, whose glory of bended wood  
Is shattered, and the spirit of life therein  
Spilt with the cask's undoing, I bid you hail,  
Lift up your heads with whatso lifting up  
Slain men may lift them; yea, be strong of  
heart,  
Deem not yourselves as dead, seeing this your  
bane

Shall flower for life-giving to England's law,  
A leading case for ever, and each drop  
And several runlet of this liquor shed  
In Water-lane<sup>1</sup> shall rise in Westminster  
A fountain-head and wellspring of clear streams  
Perennial; so this court hath judged and I.

<sup>1</sup> The cause of action was that the defendant had undertaken "*Salvo et secure elevare, Anglice* to take up, several hogsheads of brandy then in a certain cellar in D. *et salvo et secure deponere, Anglice* to lay



---

them down again in a certain other cellar in Water-lane," and "the said defendant and his servants and agents *tam negligenter et improvide* put them down again into the said other cellar *quod per defectum curæ ipsius* the defendant, his servants and agents, one of the casks was staved, and a great quantity of brandy, *viz.* so many gallons of brandy, was spilt."

### III.—ARMORY v. DELAMIRIE

(1 Sm. L.C. 385)

THE ARGUMENT.—*This tale sheweth how a poor chimney-sweep found a goodly jewel, and by the guile of a goldsmith's prentice was like to lose all fruit thereof; yet afterward, in Hilary Term of the eighth year of George the First, brought trover for the same and had his damages, and moreover wrought thereby a perpetual memory of his name and an occasion for excellent learning.*

IN Middlesex, that excellent county,  
there dwelt a little sweep hight Armory,  
which clomb and crope in chimneys strait and small,  
to earn full scanty living therewithal.  
This Armory, one time as he doth fare  
sadly about his toil, is haply ware,  
looking to earthward, of a glittering thing,  
and putteth hand thereto, and lo a ring  
with gold ywrought and seemly stones therein.  
To know the worth hereof he fain would win,  
and bringeth it unto a stall thereby,

where sat a goldsmith, hight Delanirie,  
and eke a prentice knave of evil wit :  
(I n'ot his name, the book saith nought of it.)  
This prentice, then, as he would weigh the ring,  
took it in hand, and of his false cunning  
hath from the socket done the stones clean out.  
Anon he cried, "Master, thereof no doubt,  
three halfpence is the worth, there nis no more."  
Quod Armory, "Me this misliketh sore ;  
give me my jewel back, and fare ye well  
with such folk which have will good cheap to sell."  
For all his words they gave him for the nones  
the socket empty and withouten stones,  
and leugh upon him and gan call him thief.  
Therefore full wisely telleth he his grief  
to men of law, which answered him anon :  
"The finder hath lawful possession  
for all men, save the very owner's title.  
Eke from this master ye shall have requital,  
for wrong that servant doth, books techen so,  
in master's business, *nocet domino*."  
What needeth wordës mo : the suit is brought ;  
it falleth every point as thus was taught.  
And seeing by this wickedness the stone

was made away, and his worth known to none,  
craftsmen there came to show by weight and tale  
what gems of best and uttermost avail  
might in the compass of that ring be laid ;  
with no less damage it should be apaid :  
for what man hideth truth in wrongdoing,  
against him the law deemeth everything.  
Thus hath the justice given doom aright,  
and Delamirie goeth in ill plight,  
and Armory is joyful of his gain.  
The tale is done, there is no more to sain.

#### IV.—SCOTT *v.* SHEPHERD

(1 *Sm. L.C.* 480)

##### ANY PLEADER TO ANY STUDENT

Now, you're my pupil !  
On the good ancient plan I shall do what I can  
For *your* hundred guineas to give *my* law's blue pill  
(Let high jurisprudence which thinks me and you dense,  
Set posse of cooks to stir new Roman soup ill) :  
First volume of Smith shall give you the pith  
Of leading decision that shows the division  
Of action *on case* from plain action of *trespass*  
Where to count in assault law benignantly says " Pass! "

Facts o' case first. At Milborne Port  
Was fair-day, October the twenty and eight,  
And folk in the market like fowls in a crate ;  
Shepherd, one of your town-fool sort  
(From Solomon's time they call it sport,

Right to help holiday, just make fun louder),  
Lights me a squib up of paper and powder  
(Find if you can the law-Latin for't)  
And chucks it, to give their trading a rouse,  
Full i' the midst o' the market-house.  
It happed to fall on a stall where Yates  
Sold gingerbread and gilded cates  
(Small damage if *they* should burn or fly all);  
To save himself and said gingerbread loss,  
One Willis doth toss the thing across  
To stall of one Ryal, who straight on espial  
Of danger to *his* wares, of selfsame worth,  
Casts it in market-house farther forth,  
And by two mesne tossings thus it got  
To burst i' the face of plaintiff Scott.  
And now 'gainst Shepherd, for loss of eye  
Question is, whether *trespass* shall lie.

Think Eastertide past, off crowds and packs town  
Where De Grey, Chief Justice, and Nares and Blackstone  
And Gould his brethren are set in banc  
In a court full of serjeants stout or lank,  
With judgment to give this doubt an end  
(Layman hints wonder to counsellor friend,

If *express colour* be visible pigment,  
And what's by black patch a-top serjeant's wig meant).  
Nares leads off, opines with confidence  
Trespass well lies and there's no pretence  
But who gave squib mischievous faculty  
Shall answer its utmost consequence  
(*Qui facit per alium facit per se*):  
Squib-throwing a nuisance by statute, too!  
Blackstone, more cautious, takes other view,  
Since 'tis not all one throw, but an impetus new  
Is given to squib by Ryal and Willis,  
When *vis* first *impressa* thereon spent and still is;  
In fine, would have justice set mouth firm, not sound awry,  
But teach forms of action to know each his boundary.  
Gould holds with Nares :—If De Grey pairs?  
That were, odzooks, equipoise, *dignus vindice*  
*Nodus!* But—"I too on same side faith pin, d'ye see,"  
So De Grey spake—"For, as I take  
It, the consequences all flowed of course  
From Shepherd's original wrongful force :  
Seen rightly, in this case difference *nil* is  
In squib's new diversion by Ryal and Willis,  
Whom (against Brother Blackstone, I'm free to confess  
it) I

Account not free agents, since merest necessity  
Bade cast off live squib to save selves and wares."  
For such reasons, concurs with Gould and Nares.  
*Ergo*, "*Postea* to the plaintiff."  
Next, digest learned editor's notes,  
Mark the refinements, preceptor acquaint if  
You've duly mastered cases Smith quotes—  
Eh?—No! What says book here? As I'm alive,  
"Distinctions, had place in principal case,  
Since fifty-two make less ado,  
And in fact by Judicature Act,  
After November seventy-five,  
Last stumps of pleading by final weeding  
Are grubbed up and thrown adown wind to perdition :  
So, note's omitted in present edition !"

Well—liquor's out, why look more at old bottle?  
Gulp down with gusto, you that are young,  
These new Rules' ferment, tastes ill in *my* throttle,  
Since Justice, *in nubibus* no more on high sitter,  
Descends to speak laymen's vulgar tongue.  
So be it! *Explicit—parum feliciter.*



V.—WIGGLESWORTH *v.* DALLISON

(1 *Sm. L.C.* 569)

“HIBALDSTOW LEYS, they say, this field is call’d”—  
So I to Edwin, as he swung with slow  
Mechanic oscillation on the gate,  
Half mindful in dim chambers of the brain,  
If our new prophets read old riddles right,  
Of some ancestral four-foot playfulness—  
“A strange old name.” But he, my country friend,  
Peal’d forth bucolic laughter, no dry crease  
And measur’d curl of nicer town-bred lips,  
But full cachinnant music from the lungs  
Catching the half-form’d word: “Ay, strange to you  
Strangers from town—but I—we know them well,  
The field and the field’s tenant: there’s a tale  
My grandfather could tell of Wigglesworth,

“This was an action of trespass for mowing, carrying away, and converting to the defendant’s own use, the corn of the plaintiff growing in a field called *Hibaldstow Leys*, in the parish of *Hibaldstow*, in the county of Lincoln.”

"One Isabella Dallison, deceased, being tenant for life, and Dallison, the reversioner in fee, made a lease . . . to the plaintiff . . . for twenty-one years to be computed from the 1st of May, 1755."

Old Wigglesworth ; his lease from Dallison  
 (His lord late in reversion, now possess'd)  
 Ran out, next May-day fills the hundred years :  
 But he had sown his corn, good easy man,  
 In custom'd thrift and course of husbandry,  
 Thinking to cut and carry without fail  
 And take by laudable and ancient use,  
 Whereto man's memory finds in Hibaldstow  
 No counter instance, his way-going crop  
 From reasonable portion of his lands.  
 He little dreamt the coil that should ensue—  
 Action of trespass, declaration, plea  
 Of *liberum tenementum*—and how else  
 Their lawyers' jargon runs : for Dallison,  
 The crop grown up, and farmer Wigglesworth  
 Claiming the fruits, flatly withstood his right.  
 I know not why—haply a fit of spleen ;  
 Haply the scrivener-steward's over-zeal  
 Would strain his lord's right to the utmost  
     marge  
 Of all those four-square and indented skins,  
 Perpending clause and covenant, with dull ear  
 Deaf to the promptings of the larger rule,  
 Folk-law that needs no penman ; or, mayhap,

The man's own ill desire, as such rank weeds  
 Will wax in lordship and mere wantonness  
 Of new possession, was to burst the bonds  
 Devised of ancient wont and kindliness  
 To save dominion whole, not marring use."  
 He paus'd, and, careless, brush'd a careless gnat.  
 Then I: "Nay, take me farther; of these twain,  
 Your downright farmer and your churlish lord,  
 The landlord had already the nine points;  
 The farmer stirr'd the law then?" "Ay, trust him  
 For that; a man, once mov'd, stout in his right—  
 Or wrong at need—East-Anglian to the core;  
 Dallison kept him out, and mow'd the corn;  
 He sued and won." "Whether from flying foe  
 Or fighting?" "O, 'twas fought, and lustily,  
 First up at 'sizes: there the jury found  
 The custom clear for Wigglesworth; but that  
 Was only half the battle, Dallison  
 Being East-Anglian too; they took the cause  
 To Westminster and set their tools to work,  
 Motion and rule; well, sir, it somehow grew,  
 Through due and fitting course of tortuousness,  
 Ripe for full argument; then counsellors  
 Clash'd in high joust with reasons, precedents,

See the argument  
for the defendant,  
*ad fin.*, 1 Sm. L.C.  
(9th ed.) 574, 576.

Statutes ; they say, one call'd the almanack  
To witness no such custom could be good  
Since May-day was transform'd by change of style ;  
At last their quivers' crabbed store was spent,  
There came a hush, and nestling of great wigs  
In council—*curia advisari vult*—  
For Edwin, now a country squire, had sat  
With Templars, and such not uncherished scraps  
Clung to him from his days of eating terms—  
“And nothing fixt : but after certain days  
Lord Mansfield spake in words of pithy weight  
The judgment of the Court (the words were all  
His own, the judgment haply more than half)  
Deeming the custom righteous, just, and good,  
Seeing 'tis fit that he who sows should reap,  
And farming by such liberal custom's aid  
Shall gather increase, and the deed admit  
No jot of contradiction, but a right  
Nowise repugnant. And all this and more  
Is printed in a wise and weighty book,  
With gloss and commentary, case on case,  
Rich soil for fresh debate and argument  
To swell the garden of choice instances,  
And bless posterity with new delicacies

Of hair-breadth difference. Thus old Wigglesworth  
Fought for old use, and in his proper cause  
Stablish'd the general wont of Hibaldstow,  
And built himself an everlasting name."

## VI.—MOSTYN *v.* FABRIGAS

(1 *Sm. L. C.* 628)

The situation  
and territorial  
sovereignty of  
*Minorca*, 15  
Geo. III.

MINORCA lies in the Middle Sea,

*Within the ward of Cheap to wit,*

Was aforetime of England's empery,

*And St. Mary-le-Bow to prosper it.*

The manner of  
government of  
the island.

John Mostyn bare rule within that land,

*Within the ward of Cheap to wit,*

On such as misliked him he laid strong hand,

*And St. Mary-le-Bow to prosper it.*

The false im-  
prisonment com-  
plained of in the  
case.

On Anthony Fabrigas he hath passed,

*Within the ward of Cheap to wit,*

And his body in prison six days hath cast,

*And St. Mary-le-Bow to prosper it.*

And he drave him into the coast of Spain,  
*Within the ward of Cheap to wit,*  
 That a twelvemonth he might not come back again,  
*And St. Mary-le-Bow to prosper it.*

And this for no judgment or righteous cause,  
*Within the ward of Cheap to wit,*  
 So lightly this Mostyn did reck of laws,  
*And St. Mary-le-Bow to prosper it.*

"I may go to England and take mine ease,  
*Within the ward of Cheap to wit,*  
 For my trespass was done beyond the seas,"  
*And St. Mary-le-Bow to prosper it.*

Governor  
 Mostyn's vain  
 confidence to  
 escape the juris-  
 diction of the  
 English courts.

But mark how Fabrigas doth devise,  
*Within the ward of Cheap to wit,*  
 With pleaders and serjeants wary and wise,  
*And St. Mary-le-Bow to prosper it.*

Viz., Mr. Peck-  
 ham and Mr.  
 Serjeant Glynn.

In the Common Pleas they have sued their writ,  
*Within the ward of Cheap to wit,*  
 And holden Mostyn to answer it,  
*And St. Mary-le-Bow to prosper it.*

Action in C.P.

*Capias.*

Pleadings and  
trial.

The venue is laid with *videlicet*,  
*Within the ward of Cheap to wit*,  
 The issue made up, and the jury met,  
*And St. Mary-le-Bow to prosper it.*

Verdict for  
£3000 damages  
and £90 costs.

For three thousand pound was the verdict then,  
*Within the ward of Cheap to wit*,  
 And also for costs four score and ten,  
*And St. Mary-le-Bow to prosper it.*

Proceedings in  
error: judgment  
affirmed.

And Mostyn's serjeants were not of skill,  
*Within the ward of Cheap to wit*,  
 For to show that cause of action ill,  
*And St. Mary-le-Bow to prosper it.*

There be actions local which must be tried,  
*Within the ward of Cheap to wit*,  
 Where their proper cause doth of right abide,  
*And St. Mary-le-Bow to prosper it.*

But trespass of transitory kind,  
*Within the ward of Cheap to wit*,  
 Shall be laid where the plaintiff hath a mind,  
*And St. Mary-le-Bow to prosper it.*



And look, to what end a fiction is made,  
*Within the ward of Cheap to wit,*  
 To the same it shall never be gainsaid,  
*And St. Mary-le-Bow to prosper it.*

*Vide* Lord Mansfield's judgment, Cowp. 177.

Now fictions be dead, and venue undone,  
*Within the ward of Cheap to wit,*  
 And local or transitory's all one,  
*And St. Mary-le-Bow to prosper it.*

Common Law Procedure Acts and Judicature Acts. *Et vide* Whitaker v. Forbes (1875), 1 C.P.D. 51.

And this is the burden of time's swift feet,  
*Within the ward of Cheap to wit,*  
 And of leading cases grown obsolete,  
*And St. Mary-le-Bow to prosper it.*

VII.—PASLEY *v.* FREEMAN

(2 *Sm. L.C.* 74)

Videlicet        die  
x x j m o    F e b.  
Londini    supra-  
dict' &c.

It was Pasley came with his felaw  
to London town with wares to sell,  
sixteen bags of the fine cochineal,  
for buyers who should like them well.

Stood up a buyer and spoke so fair,  
John Christopher Falch he had to name :  
“ Right well me liketh the cochineal fine,  
and I will freely buy the same.”

“ If ye be fain to buy our wares,  
we must wot one thing or ere we sell :  
ye shall do us to wit if ye be of worth,  
a man to trust and credit well.

“For but and the silver and gold were paid,  
 this day were a day to rue full sore :  
 two thousand pound is not the worth,  
 nor if ye tell six hundred more.”

Appiert per le  
 liver que le  
 cochineal estoit  
 de grand value—  
 viz.; del value  
 £2634 16s. 1d.

Joseph Freeman stood up and spake :  
 “I rede you let the wares be sold,  
 John Christopher is a man of trust  
 for the white silver and eke red gold.”

They have given their wares to John Christopher,  
 and set him a day to pay in hand ;  
 John Christopher's fled o'er the wan water  
 and left no goods within the land.

A ma entente le  
 fait fuit issint,  
 coment que ceo  
 nest expresse-  
 ment nosme deins  
 le liver.

Pasley is woxen as a man wood,  
 to sit still him seemed nothing meet ;  
 said, We'll up and sue this false Freeman,  
 to do us right for his deceit.

There was Grose the one justice,  
 said this was but a lewēd thing,  
 for where ye find no word of promise,  
 no action lieth for bare lesing.

*Nota* que la ley  
 d'Engleterre est  
 auxi moult haulte  
 et excellent sci-  
 ence, que divers  
 points ne poient  
 estre facilement  
 resolve, et pur  
 graunt reson  
 maynts foytz les  
 justices differont,  
 come icy, quar  
*Nil affirmatum,  
 nisi sit bene per-  
 dubitatum.*

Buller was the other justice,  
said, Here is damage and deceit ;  
where by word of man be comen these twain,  
the third is, to requite his cheat.

Ashhurst was the third justice,  
said, Though he gain not by the lie,  
his malice is yet more curst of kind  
than if he had hope to win thereby.

Lord Kenyon was the chief justice,  
said, Full little is left to tell ;  
but the fraud was plain and eke the loss,  
and I hold this action lieth well.

So Pasley won that cause as then ;  
but merchants had thereof affright,  
and have letten ordain in Parliament,  
such words shall have no harm ne might  
to hold one bound for his fellow's trust,  
but if they be written in black and white.

"It ought more  
emphatically to  
lie against him,  
as the malice is  
more diabolical,  
if he had not the  
temptation of  
gain." 2 Sm.  
L.C. at p. 90.

*Nota* l'effect del  
statute. Et est  
assavoir que per  
reson et entende-  
ment poet home  
ovesque temps et  
diligence con-  
ustre la comen-  
ley, mes les  
statutes nemye.

VIII.—DOVASTON *v.* PAYNE

(2 *Sm. L.C.* 154)

*The Court.* “O WHAT man are ye that cry so sore?”

*Free and fair is the king's highway.*

*Dovaston.* “My kine are gone, and I have no more,      Replevin for tak-  
Which Payne hath caught and doth keep      ing the cattle of  
away.”      the plaintiff.

*Cur.* “That ye took his cattle, is this well seen?”

*Free and fair is the king's highway.*

*Payne.* “They were damage feasant in my demesne,      Avowry.  
And therein I took them, as well I may.”

*Cur.* “How came your kine on your neighbour's  
land?”

*Free and fair is the king's highway.*

*Dovaston.* “By hedges and fences on either hand,      Plea.  
That were fallen to ruin and great decay.”

*Cur.* "Nay, tell us, what were your kine about?"

*Free and fair is the king's highway.*

*Dovaston.* "They were in it, they erred and escaped  
thereout,

Where Payne of right should amend the  
way."

Special demurrer. *Payne.* "For aught he hath said they were there of  
wrong,

*Free and fair is the king's highway.*

For if they were passing *through and along*,

No word thereof doth his pleading say.

"And if the fence I must needs repair,

*(Free and fair is the king's highway)*

Why, that is for such as of right are there,

Not for folk or beasts that will idly stray."

Judgment for de- *Cur.*  
fendant

"The right is to pass and repass alone,

*Free and fair is the king's highway.*

And that your pleader should well have  
known,

Whose fault hath lost you this cause to-day.

“And now the case is exceeding plain,

See per Buller, J.

*Free and fair is the king's highway.*

He shows how your kine he might well  
distrain,

And ye show us nothing to say him nay.”

For special pleading was then of might,

*Free and fair is the king's highway.*

And of Payne or Dovaston which had right  
Is hid for ever and eke a day.

IX.—ELWES *v.* MAWE

(2 *Sm. L.C.* 182)

STRIKE now, O Muse, a new measure, come forth for a  
greater achievement,  
Armèd in hexameters, august, to refute mere mortals,  
Carping and cavilling brood, who doubt if such metre  
in English  
Justly and fully sufficeth to render the music of Homer;  
Calling it harsh, unruly, dog-tail-dragged, tin-kettle  
clatter;  
Jingle of lumbering accent, unfitted for themes heroic.  
Sing me the strife immortal that rose betwixt landlord  
and tenant,  
Strife that set high in the heavens a star to illumine in  
all time  
Divers kinds and distinctions of chattels annexed to the  
freehold.



Named with what names, O Muse, were the heroes of  
this litigation,

Who stood firm in defence, who sued with furious  
onset ?

Elwes, the shrewd, was plaintiff, and Mawe, the thrifty,  
defendant.

Mawe was lessee from Elwes of lands in the county of  
Lincoln,

Messuage, out-houses, stables, and barn, in the parish of  
Bigby :

Mawe, the thrifty, looked round him and scanned those  
premises wisely,

Full six years he scanned them, beholding the farm's  
occupation

Minished in use and worth for want of convenient  
buildings :

Therefore he laid to his hand, and set up those con-  
venient buildings,

All at his own expense, a carpenter's shop and a beast-  
house,

Houses of fuel and carts, and a pump-house, of brick  
and mortar,

Founded fast in the ground, and tiled, and of brick were  
the pillars.

So he possessed his farm, and rejoiced in his useful  
buildings,

He and all men and all beasts of the field in the parish  
of Bigby.

Time, which men count by moons, but the gods by  
terms and vacations,

Stood not nor halted the while, and the lease drew nigh  
to its ending.

Therefore did Mawe, the thrifty, bespeak his own heart  
and take counsel,

This way and that revolving the cost and the gain, and  
the chances

Weighing, and thus at the last to himself did his heart  
make answer :

“Lo now, I leave these lands, and shall be to this farm  
as a stranger ;

Soothly it little shall profit me then, if the houses I  
build

All at mine own expense, the carpenter's shop and the  
beast-house,

Houses of fuel and carts, and the pump-house, of brick  
and mortar,

Joy to all men and all beasts of the field in the parish  
of Bigby,

Stand there after my time, and be left a possession to  
Elwes :

Nay, but I surely will move their foundations, digging  
around them,

Raze their walls, and their stuff, the goodly bricks and  
the mortar,

Keep for a gain to myself, and leave the land as I  
found it."

So then in all things he did in such wise as his heart  
had counselled,

Razed those walls, and moved the foundations, digging  
around them,

Carted away the stuff for himself, the bricks and the  
mortar,

Elwes, the shrewd, sat aloft, and beheld from his height  
of reversion

These things wrought, and, beholding, his anger was  
kindled within him,

Anger that moved him to deeds of might and to Lincoln  
assizes.

There he declared against Mawe for his injured estate  
in reversion,

Claiming the buildings his own, their destruction a waste  
and a trespass.

Great was the case, and the point too grave for Lincoln  
assizes ;

After a verdict for Elwes, the case was reserved for the  
full court.

There, where the King's own pleas were before his justices  
holden,

Counsel for Elwes and Mawe stood forth and strove with  
examples,

Showing what things in old time were esteemed ingrown  
to the freehold,

Rooted past lawful removal, what kept their moveable  
nature.

Much they debated of wainscot and window, of furnace  
and oven,

Vats of the dyer, and cider-mills, and boilers and salt-  
pans ;

Also, not least, a new thing, fire-engine, a blessing to  
coal-mines.

Twice in two terms they strove, and the court considered  
its judgment,

Judgment which afterwards, well advised, the Chief  
Justice delivered,

Stated the case and the question, and spoke their con-  
sidered opinion ;

No right had the defendant, they held, to remove these  
buildings.

Wisely he showed how the general rule bids cleave to  
the freehold

Things by the tenant once fixed, and explained the divers  
exceptions

Suffered in favour of trade, the furnace, the vats, and the  
boilers,

Also the new fire-engines, the cider-mills, and the salt-  
pans ;

Ever in favour of trade such exceptions, no mention of  
farming ;

Further to stretch the exception to mere agricultural  
buildings,

Not for a certain trade, were great and rash innovation.

Wherefore Elwes, the shrewd, maintained his cause and  
his verdict,

Had great worship of all men there, and went homeward  
rejoicing,

Bearing the *postea*, goodly-engrossed, the prize of the  
battle.

Stay now and rest, O Muse, some breathing-space from  
thine headlong

Flight, and abate thy storms whose harmony, thunder-  
laden,

Harmony called by profane ones a vile accentual jingle,  
Leaves all Greeks outsung, outstorms all thunder of  
Homer.

This we have shown them, O Muse ; but if they presume  
to deny it,

Say these hexameters jingle, or want any note of the  
grand style,

Deadly and swift thy revenge on such carping and  
cavilling creatures,

Grievous and grim their reward at thine hand, and the  
sword of thy vengeance :

All the Reports at large we will take and versify likewise.

## X.—MARRIOT *v.* HAMPTON

(2 Sm. L. C. 441)

ARGUMENT.—*This is an exceeding pitiful ballad, and therefore I shall divide it before I write it down. And I will divide it subtly, for it hath many parts. First it is divided into two parts. The first part sheweth the former dealing between the parties, and the grounds of this action. The second part sheweth the course of this action, and the fortunes of the plaintiff therein. The second part begins here: Go to now. The second part is again divided into five. The first setteth forth Marriot's new enterprize in hope to recover his fortune. The second sheweth his discomfiture at Nisi Prius. The third expoundeth the endeavour of his counsel to have a new trial. The fourth sheweth how the Court wholly refused the same, and the weighty grounds in reason and law for their decision. The fifth, moralising upon the whole tale, saith what instruction and warning it behoves all discret men to take from this case. The second begins here: Sir plaintiff. The third begins here: And Gibbs. The fourth begins here: And O but. The fifth begins here: And if like. Also the burden hath two parts. The first relateth to the action, and doth express the original mischance whence this tragedy arose. The second relateth both to the action and to the author, and doth express in very lamentable wise as well the particular grief of the plaintiff in this case, which is the literal sense, as in a*

*general and allegorical sense, which is a more subtle and excellent thing, and to be understood by certain I wot of, the author's grief and heaviness at the downfall of Pleading, on which once most fair Lady of our Four Inns the word is in these days fulfilled, Quomodo sedet sola civitas. The second part begins here : Sing sorrow.*

The original sale of goods to Marriot, and Hampton's unconscionable action for the price thereof, which in truth he had in hand.

WHEN Hampton sold goods to Marriot,

*Woe's me for goods sold, and wellaway !*

Then Marriot paid, and receipt he got ;

Alas ! it were better he paid it not.

*Sing sorrow for money had and received,*

*And alack for the common counts, O.*

For the false knave Hampton sued him amain ;

*Woe's me for goods sold, and wellaway !*

The receipt whereby his discharge was plain

Did Marriot seek, and he sought in vain :

*Sing sorrow for money had and received,*

*And alack for the common counts, O.*

The now plaintiff Marriot unable to defend that action : but by the secret ways of destiny the receipt being at a later day found,

He must needs pay twice, and for costs was bound ;

*Woe's me for goods sold, and wellaway !*

But there came a day the receipt was found,

He never had liever no thing on ground.

*Sing sorrow for money had and received,*

*And alack for the common counts, O.*



"Go to, now, this knave in my turn I'll sue,

*(Woe's me for goods sold, and wellaway!)*

And his pride and his evil gains undo:"

But what should befall full little he knew.

*Sing sorrow for money had and received,*

*And alack for the common counts, O.*

he merrily sueth  
for money had  
and received.

"Sir plaintiff," quoth Kenyon, "your wit is but raw,

*(Woe's me for goods sold, and wellaway!)*

For to wage this emprise which never man saw,

To get back money paid under process of law."

*Sing sorrow for money had and received,*

*And alack for the common counts, O.*

Ruling of Lord  
Kenyon, C.J., at  
Nisi Prius.

His name hath the crier thrice called upon,

*Woe's me for goods sold, and wellaway!*

And he standeth nonsuit with his cause undone,

But if a new trial may yet be won,

*Sing sorrow for money had and received,*

*And alack for the common counts, O.*

Nonsuit.

And Gibbs doth eagerly move the court,

*Woe's me for goods sold, and wellaway!*

For such actions have lain, by good report,

Gibbs, of counsel  
for Marriot,  
moveth for a rule,  
and citeth au-  
thority.

And the doubt is full weighty for cutting short ;  
*Sing sorrow for money had and received,*  
*And alack for the common counts, O.*

Rule refused.  
 Judgment of  
 Lord Kenyon,  
 C.-J.

And O but the judges were wrathful men !  
*Woe's me for goods sold, and wellaway !*

“ If we granted a rule, it were danger then  
 No action should henceforth have end again : ”  
*Sing sorrow for money had and received,*  
*And alack for the common counts, O.*

Of *Grose, J.*

And another spake : “ Shall we give pretence  
*(Woe's me for goods sold, and wellaway !)*  
 To fling doors open for negligence  
 Of parties unready with evidence ? ”  
*Sing sorrow for money had and received,*  
*And alack for the common counts, O.*

Of *Lawrence, J.*

And a third : “ Thus dooms which be dight and clear  
*(Woe's me for goods sold, and wellaway !)*  
 Were upset for new matters brought up in arrear,  
 A thing most monstrous for ears to hear.”  
*Sing sorrow for money had and received,*  
*And alack for the common counts, O.*

So Marriot must pay for the commonwealth's sake.

*Woe's me for goods sold, and wellaway!*

And if like ensample ye will not make,

Keep shrewdly, good folk, all receipts that ye take :

*Sing sorrow for money had and received,*

*And alack for the common counts, O.*

*Interest rei-  
publicæ ut sit  
finis litium.*

The moral of this  
tragedy.

XI.—MANBY *v.* SCOTT, &c.

The wisdom of  
the law concern-  
ing married  
women.

HERKNETH this time and learn of me  
How this our law and mystery  
In ruling all men's property,  
And most of folk that wedded be,  
Of wisdom is fulfilled well.  
All ye wives whose hap thus was  
To show this marvel of our laws,  
This tale is yours to tell.

DAME SCOTT

Manby *v.* Scott.  
(2 Smith, L.C.  
456.)

I am the wife of Edward Scott,  
That walked full daintily, I wot,  
With silk and samite clothed upon.  
The worth of it by ells was told  
To forty pounds of the fine gold.  
All in my lord's derision.

By mighty argument was found  
His credit might not so be bound,  
The mercer had confusion.

MRS. BENEDICT

I am the wife of Benedict.  
For gauds and gems mine heart was pricked  
With fire and strained with strength of love.  
Silks, yea, silk stockings thirteen pair,  
Gloves and rich jewels to my wear,  
The seller had small gain thereof.  
Nathless we had but one poor house,  
Of garnishment nought plenteous,  
Of serving men eke scant enough.

Montague v.  
Benedict.  
Seaton v.  
Benedict.  
(2 Sm. L.C. 504,  
512.)

COUNTESS OF STRATHMORE

I am the Countess of Strathmore.  
I married Bowes and rued it sore,  
Yet spoiled his uttermost intent.  
By cozenage and false championry  
Him seemed he had my wealth in fee,  
And it was all in settlement.

Countess of  
Strathmore v.  
Bowes.  
(1 Ves. Jr. 22; 1  
R. R. 76.)

Great words he spake in this despite  
 Of fraud and his marital right,  
       In vanity his words were spent.

## LADY ELIBANK

Lady Elibank v.  
 Montolieu.  
 (5 Ves. 737.)

I am the Lady Elibank.  
 Of all wives I have thank  
       That seek their goods i' the Chancery.  
 Wives' equity to settlement  
 Hath worship and establishment  
       And strength of days by this decree.  
 Seven years I strove there with my lord,  
 And plucked the flower of threefold word  
       In triple doom and mastery.

1799—1806: be-  
 fore Lord *Lough-*  
*borough*, Lord  
*Eldon*, and *Sir*  
*W. Grant*.

## MRS. GALLAGHER

Johnson v.  
 Gallagher. (3 De  
 G. F. & J. 494.)

The mystery of wives' separate trade  
 By me Jane Gallagher was made  
       In latter days elucidate.  
 I writ no writing, sealed no thing,  
 I dealt after a man's dealing,  
       Until my debt was heavy and great.

Thing = *Fait*,  
 deed: "indite  
 and make a  
 thing."

By rede of the one Lord Justice,  
 Albeit it was newfangledness,  
 This will bind separate estate.

Judgment of  
*Turner*, L. J.,  
 since approved in  
 the Privy Coun-  
 cil, see L. R., 4  
 P. C. 590-594.

To tell now in what wise was meant  
 This law should have additament  
 By wisdom of the Parliament,  
 Whereof our scriveners, as men seen,  
 Reck no more than an old bean,  
 As now it is not mine intent,  
 The tale were too long,  
 By these ensamples ye may find  
 What power han wives to loose and bind ;  
 This ends my little song.

Married Wo-  
 men's Property  
 Acts, 1870 and  
 1874. Their  
 general utility.<sup>1</sup>

<sup>1</sup> These Acts were repealed and superseded by the Act of 1882, to which the text, written some years before, is not applicable.

## XII.—IN THE MATTER OF THE X. CO., LIMITED

The changes in the Companies Acts, Bankruptcy Acts and Rules, and Rules of Court, are so frequent, that in this branch of the law the only useful course appears to be to present the learned reader with an ideal typical case, freed from the variable accidents of procedure.

### SECTA AD MOLENDINUM

*Fish and fisher, lost and won ;  
Loss and gain, and lightly gone.*

HE walked all briefless along the stream,  
And said : Some solace it would meseem  
If here I might catch a cod or a bream  
    *(Wigs are white in the wan water) :*  
For he clean forgat in his misery  
Which fish be of river and which of the sea.  
    *(The milling-hour is white with flour  
    On the mill-dam and the miller's daughter.)*



Moreover, being of heavy fate  
 Most heart-fulfillèd and satiate,  
 He set on his bended hook no bait.

*(Wigs are white in the wan water.)*

The fishes were ware and fled at the sight ;  
 He marvelled much why they should not bite.

*(The milling-hour is white with flour  
 On the mill-dam and the miller's daughter.)*

Then deemed he all things were vain and fond,  
 Hopes lost in the hand and fears beyond,  
 The round world like as the round mill-pond.

*(Wigs are white in the wan water.)*

He said : 'Twere a goodly thing to see,  
 Since I take not fish, will the fish take me ?

*(The milling-hour is white with flour  
 On the mill-dam and the miller's daughter.)*

The miller's daughter she came along  
 In a gown of green harmonies exquisite-wrong,  
 Singing a marigold-yellow new song.

*(Wigs are white in the wan water.)*

And first she called him a gaping fool,  
 And then she blushed and gazed in the pool.

*(The milling-hour is white with flour  
On the mill-dam and the miller's daughter.)*

They opened their mouths and spake of Desire,  
Of dreams, of dados, of things yet higher,  
And he showed her that he was of right Esquire  
*(Wigs are white in the wan water):*  
And her seemed with a real Esquire to wed  
Were finer than flour is of simnel bread.

*(The milling-hour is white with flour  
On the mill-dam and the miller's daughter.)*

These twain be wedded right merrily,  
And have holden the miller's grist in fee,  
And floated therewith a great Companie.  
*(Wigs are white in the wan water.)*  
But winding-up cometh to limited things,  
And a day when the assets be flown with wings.

*(The milling-hour is white with flour  
On the mill-dam and the miller's daughter.)*

The clerks and accountants came all round,  
For each of them goodly fees were found,  
The creditors had five pence in the pound.  
*(Wigs are white in the wan water.)*

---

Take heed ye fall not in such like bale,  
 And pray for the clerk that hath told this tale.  
*(The milling-hour is white with flour  
 On the mill-dam and the miller's daughter.)*

### XIII.—THE HOUND'S TAIL'S CASE

(*Dickson v. Great Northern Railway Co.*, 18 Q. B. Div. 176)

#### THE PLAINTIFF

O WHERE, O where is my leetle hound's tail  
That you've made of no worth to be,  
From a hound of fame, and Dutch Oven his name,  
To a dog of low degree?  
Mit your negligent shove-car trundling around,  
You trod on his tail full sore;  
Dutch Oven was worth to me sixty pound,  
And he never will course no more.

#### THE RAILWAY COMPANY

The tail and the claim they are both cut short,  
You paid us a common dog's fee;  
Two pounds you may have, and they lie in Court,  
For the balance you signed us free.

And if more you meant, it was five per cent.

You'd have paid on our special scale  
(’Twould make shillings threescore and other four)  
To insure that little hound’s tail.

THE PLAINTIFF’S COUNSEL

O where, O where’s our little case gone ?

The Company’s terms prevail,  
The Divisional Court have made us their sport  
And mangled and clipped our tail.  
But, though shrewd be our haps, and conditions be  
traps

When negligent porters shove,  
And we can’t mend the fact, yet we’ll go on the Act—  
There’s a Court of Appeal above.

THE COURT OF APPEAL

Now here, O here’s an unanimous voice  
Against this proud Company ;  
They takes your money and gives no choice  
In reason, that we can see ;  
But will break, steal, kill at their servants’ will,  
Or a monstrous rate will fix—

Eighteenth of the Queen,<sup>1</sup> it shall well be seen,  
Was made for to stop such tricks.

THE REPORTER

But where, O where is the tailless hound,  
And what shall be done with he?  
Shall a place for him in the Court be found,  
The Lords Justices' dog to be?  
With glory increased, a reported beast,  
Though he course no more on ground,  
He shall hunt like a spectre the grasping Director,  
Dutch Oven the tailless hound.

<sup>1</sup> The Railway and Canal Traffic Act, 17 & 18 Vict. c. 31.

## DEDICATION TO J. S.

WHEN waters are rent with commotion  
Of storms, or with sunlight made whole,  
The river still pours to the ocean  
The stream of its effluent soul ;  
You too, from all lips of all living  
Of worship dethroned and discrowned,  
Shall know by these gifts of my giving  
That faith is yet found :

By the sight of my song-flight of cases  
That bears on wings woven of rhyme  
Names set for a sign in high places  
By sentence of men of old time ;  
From all counties they meet and they mingle,  
Dead suitors whom Westminster saw ;  
They are many, but your name is single,  
Pure flower of pure law.

When bounty of grantors was gracious  
    To enfeof you in fee and in tail,  
The bounds of your lands were made spacious  
    With lordship from Sale unto Dæle ;  
Trusts had you and services loyal,  
    Lips sovereign for ending of strife,  
And the name of the world's names most royal  
    For light of your life.

Ah desire that was urgent to Romeward  
    And feet that were swifter than fate's,  
And the noise of the speed of them homeward  
    For mutation and fall of estates !  
Ah the days when your riding to Dover  
    Was prayed for and precious as gold,  
The journeys, the deeds that are over,  
    The praise of them told !

But the days of your reign are departed,  
    And our fathers that fed on your looks  
Have begotten a folk feeble-hearted  
    That seek not your name in their books ;  
And against you is risen a new foeman  
    To storm with strange engines your home ;



We wax pale at the name of him Roman,  
His coming from Rome.

Even she, the immortal imperious  
Supreme one from days long ago,  
Sends the spectre of Aulus Agerius  
To hound the dead ghost of John Doe :  
By the name of Numerius Negidius  
Your brethren are slain without sword ;  
Is it so, that she too is perfidious,  
The Rome you adored ?

Yet I pour you this drink of my verses,  
Of learning made lovely with lays,  
Song bitter and sweet that rehearses  
The deeds of your eminent days :  
Yea, in these evil days from their reading  
Some profit a student shall draw,  
Though some points are of obsolete pleading,  
And some are not law.

Though the Courts that were manifold dwindle  
To divers Divisions of one,  
And no fire from your face may rekindle  
The light of old learning undone,

We have suitors and briefs for our payment,  
While, so long as a Court shall hold pleas,  
We talk moonshine with wigs for our raiment,  
Not sinking the fees.

NOTE.—This J. S. is a mythical person introduced for the purposes of illustration, and constantly met with in the older books of our law, especially Sheppard's Touchstone: a kind of cousin to John Doe and Richard Roe, but more active and versatile. In later works and in the Indian Codes his initials, which are supposed to stand for John Stiles, have degenerated into unmeaning solitary letters, such as A, B, and C. The old books are full of grants of lands to him for various estates, so that his wealth is evident. He also appears as a trustee and arbitrator, and (incongruously) as a servant. His devotion to Rome is shown by his desperate attempts to get there in three days: "If J. S. shall go to Rome in three days" is the standing example of an impossible condition. "If" or "until J. S. shall return from Rome" is also a frequent example of a condition or conditional limitation: hence the importance of that event is obviously not exaggerated by the poet. It is not clear why he did not want to ride to Dover, seeing it was on the way to Rome. It is said, however, that one who is bound in a bond with condition that he shall ride with J. S. to Dover such a day must procure J. S. to go thither and ride with him at his peril. Aulus Agerius and Numerius Negidius are corresponding, and therefore rival, personages of the Civil Law, who may be found in the Digest and Institutes. It is understood that the revival of the study of Roman Law by the Inns of Court is to be commemorated in the decoration of the new Law Courts by colossal statues of Aulus Agerius and Numerius Negidius trampling on the corpses of John Doe and Richard Roe respectively.

[This has not been done. It is understood that the Council of the Judges had the project under serious consideration at their recent meeting.—1892.]

DIVERSIONS

SHAKESPEARE: KING HENRY V

Act V. Scene I

GOWER. FLUELLEN. PISTOL.

*Gow.* Why, here he comes, swelling like a turkey-cock.

*Flu.* 'Tis no matter for his swellings nor his turkey-cocks. God pless you, Aunchient Pistol! you scurvy, lousy knave, God pless you!

*Pist.* Ha! art thou bedlam? dost thou thirst, base  
Trojan,

To have me fold up Parca's fatal web?

Hence! I am qualmish at the smell of leek.

*Flu.* I peseech you heartily, scurvy, lousy knave, at my desires, and my requests, and my petitions, to eat, look you, this leek: because, look you, you do not love it, nor your affections and your appetites and your disgestions doo's not agree with it, I would desire you to eat it.

IDEM GRAECE REDDITUM

- Γ. Ἄλλ' οὗτος αὐτὸς ἵππαλεκτρύων ὅσος  
σπουδαῖον ὀρμῇ πόδα πεφυσιγγωμένος.
- Φ. τῶν ἵππαλεκτρύωνων μὲν οὐδέν μοι μέλει.  
ἀλλ' ὦ κράτιστον χαῖρέ μοι Τοξιππίον,  
χαῖρ' αὖθις, ὦ μοχθηρὲ καὶ μιαρώτατε.
- Τ. ὦνθρωπ', ἦ λυσσᾶς; κέλεαί νύ με μόρσιμον  
ἦμαρ  
ἐκτελέειν χεῖρεσσιν ἐμῆς Ἀτρόποιό τε πηνάς;  
ἀλλ' ἄπιθ', ὦ Τρώων ἔχθιστ', αὐτοῖσι πρά-  
σοισιν,  
αἰνῶς γὰρ τείρει με πράσων ὀλοώτατος ὀδμή.  
Φ. δέομαι μὲν οὔν, ὦ μιαρὲ, κἀντιβोलῶ σφόδρα  
καὶ πόλλ' ἵκετεύω σ' ἐντραγεῖν μοι τουτογί·  
ἦκιστ' ἐρᾶς γὰρ καὶ στυγεῖς πάντων πλέον  
ὄντος γε γαστρὶ τῇ σῇ δυσφιλεστάτου·  
ἀνθ' ὧν καταφαγεῖν αὐτό σ' ἄξιῶ τονῦν.

*Pist.* Not for Cadwallader and all his goats.

*Flu.* There is one goat for you. [*Strikes him.*] Will you be so good, scauld knave, as eat it?

*Pist.* Base Trojan, thou shalt die.

*Flu.* You say very true, scauld knave, when God's will is : I will desire you to live in the mean time, and eat your victuals : come, there is sauce for it. [*Strikes him.*] You called me yesterday mountain-squire ; but I will make you to-day a squire of low degree. I pray you, fall to : if you can mock a leek, you can eat a leek.

*Gow.* Enough, captain : you have astonished him.

*Flu.* I say, I will make him eat some part of my leek, or I will peat his pate four days. Bite, I pray you ; it is good for your green wound and your ploody coxcomb.

*Pist.* Must I bite?

*Flu.* Yes, certainly, and out of doubt and out of question too, and ambiguities.

*Pist.* By this leek, I will most horribly revenge : I eat and eat, I swear—

*Flu.* Eat, I pray you : will you have some more sauce to your leek ? there is not enough leek to swear by.

*Pist.* Quiet thy cudgel ; thou dost see I eat.

*Flu.* Much good do you, scauld knave, heartily.

- Τ. οὐδ' αἶ κ' Ἰδηθεν δῶς αἰπόλια πλατέ' αἰγῶν.  
 Φ. ταύτην μίαν γοῦν ἔχε λαβών· ἄλλ' οὐ θέλεις  
 τρώγειν τὸ πράσον τάχ', ὃ κίκιστ' ἀπολού-  
 μενε ;
- Τ. οὐ κε φύγοις, κύον ὦ Τροιηγενές, αἰπὺν ὄλεθρον.  
 Φ. οὐ δῆθ', ὅταν γ' ὦ μιὰρὲ τοῖς θεοῖς δοκῇ·  
 σὺ δ' οὖν ἀγάπα ζῶν καὶ δέχου τὰ σιτία·  
 πιθανώτατον δ' ἡδυσμα καταχέω τοδί.  
 ἔσκωπτες ἐμὲ μὲν ἐχθὲς ὡς ὀρέστερον·  
 φανεῖ δ' Ὀρέστου τήμερον ἀθλιώτερος.  
 ἀλλ' ἄγε· πράσον γὰρ δεινὸς ὦν σκώπτειν ἀνὴρ  
 οὐκ ἐσθ' ὅπως ἂν οὐ μάλ' ἀστείως φύγοις.
- Γ. παύσαι νυν· οὗτος γὰρ ὅσον οὐχ ὠρακιᾷ.  
 Φ. ἄληθες ; ἀλλ' ἢ γεύσεται μοι τοῦ πράσου  
 ἢ γὰρ πατάξω τὴν κεφαλὴν πένθ' ἡμέρας.  
 οὗτος, τί μέλλεις ; τραυμάτων δ' ἀκεσφόρον  
 ἔσται τὸ φύτον σοι τοῦ λόφου κατεαγότι  
 ὑπὸ κονδύλων τῶνδ'.
- Τ. ἐσθίειν μ' ἀναγκάσεις ;  
 Φ. κομιδῇ γε δὴ τόδ' ἴσθι καὶ σαφέστατα  
 κἀντιλογιῶν τε καὶ σοφισμάτων ἄνευ.
- Τ. δεινὴν γε δεινὴν νῆ τὸ πράσον τιμωρίαν  
 ἅμ' ἐσθίων ὁμνυμι .
- Φ. φάγε μὲν οὖν ἔχων.  
 ἢ δεῖ καταχύσματός σ' ἔτ' ; ἀλλ' ὄρκος πάννυ  
 σμικρὸς πράσον σοι.
- Τ. παῦε δὴ ράβδου μένος,  
 ἥδη γὰρ ἐσθίουντά μ' ὄμμασι βλέπεις.
- Φ. ὄναιο δῆτα καὶ μάλ', ὦ πονηρὲ σύ.

Nay, pray you, throw none away ; the skin is good for your broken coxcomb. When you take occasions to see leeks hereafter, I pray you, mock at 'em ; that is all.

*Pist.* Good.

*Flu.* Ay, leeks is good : hold you, there is a groat to heal your pate.

*Pist.* Me a groat !

*Flu.* Yes, verily and in truth, you shall take it ; or I have another leek in my pocket, which you shall eat.

*Pist.* I take thy groat in earnest of revenge.

*Flu.* If I owe you any thing, I will pay you in cudgels : you shall be a woodmonger, and buy nothing of me but cudgels. God b' wi' you, and keep you, and heal your pate.

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The foregoing exercise, which was printed in the Cambridge Tripos Verses of 1867, was written and sent in MS. to Richard Shilleto in the Long Vacation of 1866. After twenty-five years there can be no indiscretion in publishing Shilleto's answer ; and if there be any vanity, it may be redeemed by the merit of putting scholars in possession of a hitherto unpublished piece of Shilleto's Greek.



ἔα, τί ποιεῖς ; μὴ γὰρ ἀποβάλης, ἐπεὶ  
χρηστὸν τὸ λέμμα τῇ κεφαλῇ γενήσεται.  
τοίγαρ τὸ λοιπὸν σκῶπτέ μοι γήτει' ἰδῶν.

T. κάλλιστα.

Φ. καλὰ γοῦν τὰ πράσα· προσλαβὼν  
δ' ἔτι

τετρώβολον νῦν παράτρεχ' ἐς τὰ Πιττάλου.

T. τετρώβολόν γ' ἐμοὶ σύ ;

Φ. τᾶληθὲς λέγω·

δέξει γὰρ, εἰ δ' οὔν, ἕτερον αὖ πράσον τόδε  
φαγεῖν πρόχειρον σοί' ἔστιν ἐκ τοῦ θυλάκου.

T. λαβὼν ἀποτίσω μέγαλά σοι χρόνῳ ποτε.

Φ. κᾶγωγε σοὶ πάνθ' ἅττ' ὀφείλων τυγχάνω  
ὀρθῶς ἀποδώσω κἀνδρικῶς βακτηρίᾳ·  
κούδεν κομιεῖ παρ' ἐμοῦγε πλὴν βακτηρίας  
ὥσπερ ξυλουργός· νῦν δ' ἀκοῖντό σοι κάρα  
καυτοῖς λόφοισιν εὖ φυλάττοιεν θεοί.

MY DEAR POLLOCK,

The two first and two last lines were an  
impromptu, made on the receipt of your truly charming  
φλιναροφλιελληνομαχία.

That I am sending you after so many months what I  
hope is now somewhat more worthy of your acceptance is  
to be set down to over-fastidiousness. I was aware that

Lacones swore *ναὶ τὸ σιώ*, that Lacones and Lacænæ (in anticipation of Roman ladies) swore *ναὶ τὸν Κάστορα*, but I wanted an authority for any Greek taking in vain the name of *Πολυδεύκης*. However I think now that I have not taken too great a liberty with the Champion, for neither *ὔπαρ* nor *ὄναρ* has he let me feel his "brown fist which bruised the brawny big Bebrycian."

Hoping you are in excellent health,

Believe me,

Pollux o lepidi digne nepos avi,

Prægrandi Eupolidem cum sene qui sapis,

Very truly yours,

RICHARD SHILLETO.

Dec. 9, 1866.

νῆ τὸν Πολυδεύκη, σὲ μακαρίζω τῶν ἐπῶν·  
 χαρίεντα γούν κάστειά, Πολύδευκες, λέγεις,  
 φλυαροφλελληνομαχίαν κομψῶς ποιῶν,  
 ψολοκομπίαν τ' ἀλάζονος τοῦ πραιοφάγον.  
 παππῶς ὁ βίος ἔστί σοι φιλοπαιγμονεῖν.

ὅπως δὲ τὸ γένος μηδαμῶς καταισχυρεῖς.  
μή μοι τὸν αὐτὸν μὴ σύ γ' ἀνῆς Μουσῶν δρέπων  
Ἀριστοφάνει λειμῶν' ἱερόν· καίτοι σ' ἐγὼ  
δέδοιχ' ὅπως μὴ τὴν παροιμίαν φανεῖς·  
ΠΟΛΛΟΙ ΜΑΘΗΤΑΙ ΚΡΕΙΤΤΟΝΕΣ ΔΙΔΑΣΚΑΛΩΝ.

I need not say to those who knew Shilleto that the original is an exquisite work of handwriting.

LORD TENNYSON : BOÄDICEA

FEAR not, isle of blowing woodland, isle of silvery  
parapets !

Tho' the Roman eagle shadow thee, tho' the gathering  
enemy narrow thee,

Thou shalt wax and he shall dwindle, thou shalt be the  
mighty one yet !

Thine the liberty, thine the glory, thine the deeds to be  
celebrated,

Thine the myriad - rolling ocean, light and shadow  
illimitable,

Thine the lands of lasting summer, many-blossoming  
Paradises,

Thine the North and thine the South and thine the  
battle-thunder of God.

IDEM GRAECE REDDITUM

ὕλῳν δὲ τρόφον σ' ἠνεμοεσσῶν, ἧ γῆς ἔρυμ' ἀργυ-  
ροειδές,

θαρρεῖν λέγομεν τὴν ἀμφιρύτην, καὶ αἰετὸς ἀμφι-  
καλύπτῃ

πτέρυγι σκοτίῳ, καὶ Ῥωμαῖοι πολέμου στίφει  
ξυνέχουσιν·

ἐπὶ γὰρ φρούδοις ἴσθι σε τούτοις πλείστην μίμνουσαν  
ἔτ' ἀρχήν.

σοὶ γὰρ τιμὴ καλευθερία μέγα τ' ἀσβέστων κλέος  
ἔργων

χείλισσομένη νύξ ὠκεανοῦ καὶ φῶς ἀνὰ κύματ'  
ἄπειρον,

σοὶ τ' ἔσθ' ἵνα γῆς θέρος οὐ λήγει λειμῶν τε φλέγει  
πολυανθήs,

Λιβύων τε κράτος καὶ Ὑπερβορέων καὶ Ζεὺς βρον-  
ταῖσιν αὐτῶν.

## MACARONICA CLOVELLIANA

ARGUMENT.—The tale tells how Zeus, being wroth with the men of Clovelly, in the county of Devon, sent upon them a south-west wind with perpetual rains; and how certain of the strangers there beguiled the time with going to the shop down along toward the quay-pool, where John Mill, the boat-builder, beloved of Pallas Athene, had a goodly new herring-boat a-building; and of the manner of John Mill's caulking that boat.

ὥς οἱ μὲν κατὰ ἄστνυ πρὸς ἀλλήλους ἀγόρευον,  
Τῳρίες ἡδ' Ὑίγες παρλημεντήριοι ἄνδρες,  
νήπια μαψιδίως, ἐπεὶ οὐ κατὰ μοῖραν ἔειπον.  
καί κ' ἤραντο φυγῆς, μίμνον δ' ἀέκοντες ἀνάγκη·  
ἐστύγεόν τ' αἰνῶς ἀγορήν τε πόλιν τ' ἐρίδουπον.

Κλωφελίδαις δὲ μέγ' ὀχθήσας νεφεληγερέτα Ζεὺς  
ᾤρσεν ἄρ' ὑγροτάτους ἀνέμους Ζέφυρόν τε Νότον τε,  
τοὶ μάλα πειθόμενοι συνεχὲς πνέον ἄλλυδις ἄλλος,  
οὐρανόθεν νέφεα σκιόεντ' ἡδ' ὄμβρον ἄγοντες.  
ᾧδε δέ τις εἶπεςκε μετὰ ξείνων μεγαθύμων,  
οἷ ῥ' ἐν Κλωφελίδαις ὀλιδαῖζοντες ἔναιον·

ὦ πόποι, ἦ τόδε μὲν που ἀναλκητὸν κακὸν ἔστιν  
ἐκ Διός· ἀλλὰ με θυμὸς ἐνὶ στήθεσιν ἄνωγε

## THE EPIC OF CLOVELLY

### A FRAGMENT

So all day long the noise of jangling rolled  
From Westminster, of Tories and of Whigs  
Prating in Parliament, whose words were vain.  
And fain they were of flight, but stayed perforce,  
Loathing right grievously St. Stephen's halls,  
Divisions, and the din of London town.

But on Clovelly Zeus the lord of clouds  
Loosed in his anger those his wettest winds,  
Notos and Zephyros, who unceasing blew,  
Now this, now that, and hid the face of heaven  
With shadowy clouds, and brought a mighty rain.

Then spake one of the stranger-folk who dwelt  
There in Clovelly, making holiday :

“ Alack, a remediless plague we bear,  
Being of Zeus : but lo, thus redes my heart,

χαιπυλινήνδ' ἵμεναι δυναλόγγιον, ἀνέρος ἔργον  
καλὸν ἐποψόμενον, καρπεντήρων ὅχ' ἀρίστου,  
Μυλλίου, ᾧ μάλα δαίδαλ' ἐνὶ φρεσὶν ἔργα μέμηλεν.

ὥς ἔφαθ'· οἱ δ' ἄρα πάντες ἐπήνεον, ἦρχε δ' ὁδοῖο.  
βὰν δὲ θοῶς δυνάλογγον, ἴκοντό τε λάϊνον οὐδὸν  
τέκτονος ἀντιθέου· ὃ γε δὴ χθαμαλὸς μάλα κεῖτο,  
ἔνθα τε παννῆμαρ χερσὶ στιβαρῇσι πονεῖτο  
Μύλλιος, ἀλλ' ὑπάλογγον ἔχε κλυτὸν ὑψερεφὲς δῶ.  
νῆα δ' ἐϋσσελμον τεύχεν, μέγα θαῦμα ἰδέσθαι.  
σῆμας δὴ μακρὰς τότε' ἐκαύλχρε νηὸς εἴσης,  
ἔνθα περ ἥρμοσσε πλάγκας πυκινῶς ἀραρυίας·  
ἀκάματον δὲ σίδηρον ἔχων ἐν ἄρ' ἄσπετον ἦκεν  
ὠκυμῖν, τήν ῥα πρότερον πολλὰν κάμεν αὐτὸς  
οἴκοθι πιξάμενος νύκτεσσ' ἐνὶ χειμερίησι,  
πάντ' ἐφορῶν κατὰ κόσμον ἰδυίησι πραπίδεσσι,  
Μύλλιος· ἔξοχα γάρ μιν ἐφίλατο Παλλὰς Ἀθήνη.



To go quay-poolward down-along, and view  
The goodly work of John the carpenter,  
Prince of his craft, whose care is in all skill  
Of fair design, and might of cunning hands."

So spake he, and the saying pleased them well.  
And first he went, and down-along they sped  
Swiftly, and came unto the threshold-stone  
Of John the shipwright : down to quay it lay,  
Even the shop where all day long his hands  
Wrought sturdily, but up-along his house,  
Goodly, high-roofed : there in the shop he wrought  
A herring-boat, right marvellous to see.  
Shapen and fixt they found the planks thereof,  
And John sat caulking all her length of seams  
With tireless iron, driving in amain  
Oakum well-picked ; thereof he had good store,  
The work of his own hands in winter nights,  
What time he sat at home, disposing all  
Full wisely, for Athene loved him well.

\* \* If a man will read these lines aright, let him note that he shall not speak the name of quay-pool as the Cockneys do (who likewise say Lundy Island for Lundy, with other such idle and corrupt imaginations) ; but he shall say quay-pool after the right manner of the men of Clovelly ; which if he would understand, let him come and hear it.

## THE HINDU ASCETIC

(STUDIES AT DELHI, 1876)

HERE as I sit by the Jumna bank,  
Watching the flow of the sacred stream,  
Pass me the legions, rank on rank,  
And the cannon roar, and the bayonets gleam.

Is it a god or a king that comes ?  
Both are evil, and both are strong ;  
With women and worshipping, dancing and drums,  
Carry your gods and your kings along.

Fanciful shapes of a plastic earth,  
These are the visions that weary the eye ;  
These I may 'scape by a luckier birth,  
Musing, and fasting, and hoping to die.

When shall these phantoms flicker away,  
Like the smoke of the guns on the wind-swept hill,  
Like the sounds and colours of yesterday :  
And the soul have rest, and the air be still ?

SIR ALFRED LYALL : *Verses written in India.*

## Ὁ ΓΥΜΝΟΣΟΦΙΣΤΗΣ

(PUNJAB, B.C. 327)

Τίς με βοή, τί θέαμα καθημένον ἐνθάδ' ἰκάνει,  
γηράσκονθ' ἱεροῦ παρ ποταμοῖο ῥοαῖς ;  
ἀνδρῶν δὴ πυκιναὶ στίχες αἶδ', αἶγλη τε κiónτων  
ἄσπετος ἐκλάμπει, καὶ κτύπος ἵπποσύνης·  
τῶν θεὸς ἢ βασιλεύς, πάντως κακόν, ἡγεμονεύει·  
ὔβρις δ' ἡδὲ βίη σχέτλιος ἀμφοτέρων.  
ἂ δειλοί, βασιλῆα προπέμπετε δαίμονά θ' οὕτως  
σὺν δούπῳ τυπάνων σὺν τε κορῶν θιάσῳ·  
μυρία γὰρ τοιαῦτ' ἔτεκεν φυσίζοος αἶα,  
φάσματα καὶ νεφέλην, τοῖς ἐσιδοῦσι πόνον·  
ὦν ἄπο κὰν γενεῆς ἐπὶ λῶονος ἀλλαξαίμην,  
νήστισι συννοίαις ἰέμενος θανάτου.  
ἀλλὰ γένοιθ' ὅτε ταῦτ' ἔρροι πάλιν, ὥστε κοινήν  
ἀνδρῶν μαρναμένων ἐσκέδασε ζέφυρος,  
ψυχὴ θ', ὡς χθεσινῆς μορφῆς φθογῶν τε λέληθε,  
νήνεμον ἐξανύοι νήγρετος ἡσυχίην.

## Ὁ ΤΑΦΟΣ ΤΟΥ ΔΗΜΟΥ

(ΕΘΝΙΚΟΝ ΤΡΑΓΟΥΔΙΟΝ)

Ὁ ἥλιος ἐβασίλευε, κ' ὁ Δῆμος διατάζει·

“Σύρτε, παιδιά μου, 'ς τὸ νερὸν, ψωμὶ νὰ φάτ'  
ἀπόψε·

Καὶ σὺ, Λαμπράκη μ' ἀνεψιέ, κάθω ἐδὼ κοντά μου·

Νά! τ' ἄρματά μου φόρεσε, νὰ γένῃς καπετάνος·

Καὶ σεῖς, παιδιά μου, πάρετε τὸ ἔρημον σπαθί μου,

Πράσινα κόψετε κλαδιὰ, στρῶστέ μου νὰ καθίσω,

Καὶ φέρτε τὸν πνευματικὸν νὰ μὲ ξομολογήσῃ,

Νὰ τὸν εἰπῶ τὰ κρίματα, ὅσ' ἔχω καμωμένα.

Τριάντα χρόνι' ἄρματωλὸς κ' εἴκοσι ἔχω κλέφτης,

## THE BURIAL OF DEMOS

THE sun was low on his western throne when Demos  
spake his will :

“Go, children, make your evening meal, get water  
from the rill ;

Stay thou, Lambrákis, cousin mine, sit by me near at  
hand ;

Lo, here my arms—bear them and be the captain of the  
band :

You, children, take away the sword widowed of my  
renown,

And strew me grass and fresh-cut boughs, that I may lay  
me down,

And fetch the ghostly man to shrive the sins of all my  
life ;

Fain would I tell him all I did ; my days were full of  
strife ;

A man-at-arms good thirty years, a Klepht I tell a score ;

Καὶ τώρα μ' ἦλθ' ὁ θάνατος καὶ θέλω ν' ἀποθάνω.  
Κάμετε τὸ κιβοῦρί μου, πλατὺ, ὕψηλόν νὰ γένη,  
Νὰ στέκ' ὀρθὸς, νὰ πολεμῶ καὶ δίπλα νὰ γεμίζω.  
Κ' ἀπὸ τὸ μέρος τὸ δεξιὸ ἀφῆστε παραθύρι,  
Τὰ χελιδόνια ν' ἔρχονται τὴν ἀνοιξιν νὰ φέρουν,  
Καὶ τ' ἀηδόνια τὸν καλὸν Μάην νὰ μὲ μαθαίνουν.”

And now my hour of death is come, and life shall be  
no more.

Let make my tomb as a man of war's, a wide and lofty  
one—

I'll stand upright for the day of fight, and kneel to load  
my gun—

And make me a little window too, to my right hand  
opening,

Where I may watch the swallows' flight, the swallows  
that come with spring,

And know the merry month of May by the nightingales  
that sing."

## LES FUNÉRAILLES DE DÉMOS

VOILÀ le soleil qui baisse :  
Voilà Démos qui s'affaisse,  
    Qui se meurt et veut parler.  
" Enfants, comme à l'ordinaire  
Courez vers la rivière,  
    Nous chercher l'eau du souper.

" Ici, Lambraki, prends place ;  
Regarde-moi bien en face.  
    Vois, mes armes sont à toi :  
Qu'à toi, mon meilleur collègue,  
Le commandement je lègue,  
    Ce don fera pleine foi.

" Enlevez, mes fils, l'épée ;  
La main manque à sa poignée  
    Qui la serrait autrefois :

.



Et pour mon vieux corps inerte  
Faites une couche verte  
De rameaux coupés au bois.

“ Puis allez chercher le prêtre :  
Devant lui va comparaître  
De mes péchés le récit :  
C'est un assez rude conte ;  
Des armes trente ans je compte,  
Et vingt ans je fus bandit.

“ Maintenant la mort m'appelle,  
Je ne me fais point rebelle,  
Mais je veux rester soldat :  
Faites ma tombe haute et large,  
Pour qu'à mon aise je charge  
Mon fusil dans le combat.

“ Faut encor une fenêtre,  
Que je puisse voir renaître  
Les fleurs qui dorent le sol.  
Du printemps les hirondelles  
M'apporteront des nouvelles,  
Et de mai le rossignol.”

IN MEMORIAM

RICARDI MONCKTON MILNES

BARONIS DE HOUGHTON

MDCCCLXXXV

CUI post quindecimum parata lustrum  
lingua condere, fons novi leporis,  
aequales iuvenesque quod probarent,  
quidquid Phoebus amat facetiarum ;  
lenis cui Genius comes vigeat  
actorum memor et capax agendi  
nullis ut numeris carere posset ;  
qui felicibus optimus sodalis,  
infelicibus idem opem ferebat,  
quid lugebimus ? at decus rosarum  
nectamus potius : patrum quod aetas  
certatim puerique diligebant,  
impotentior hoc caput feretur  
invidisse Proserpinae senectus.

TO THE MEMORY OF  
RICHARD MONCKTON MILNES

LORD HOUGHTON

FOLLOW not with mourning cries,  
But with rose-crowned obsequies  
And with songs of thankful praise,  
This our friend whose length of days  
Did but mellow his ripe wit  
Ever fresh and ever fit  
For delight of old and young ;  
On his utterance we hung  
Fed from memory's garnered store,  
Whence meet action grew the more,  
Adding mirth in happiness,  
Rich with solace for distress.

Lady Proserpine the while  
With her deep and ageless smile  
That the just alone may see  
(Such their meed by Jove's decree)

Beckons at her gate set wide,  
Thrusting envious Eld aside.  
“ Back ” she bids “ thou numbing frost :  
Thou hast played for him and lost.  
Here, where mortal changes end,  
Welcome, sons’ and fathers’ friend.”  
So, for him no mournful cries :  
Strew bright garlands where he lies.

NAPIER OF MAGDALA

*January 21, 1890*

Αἰχμητῆς ὅδ' ἀνὴρ Ἰνδῶν Λιβύων τε κρατήσας,  
πολλὰ μὲν ἔργ' εἰδὼς δαίδαλ' Ἀρη δὲ πολύν,  
εὐπρεπέος τε λαχὼν βιότου θανάτου τ' ἀγανοῖο,  
Ἀγγλος ἐν Ἀγγλοισιν κεῖται ὀδυρομένοις.

## NON COMMOVEBITUR

(Scriptum cum bellum imminere videretur)

EN ut imber caelo crescit,  
En ut hostium grandescit  
    Clamor minitantium  
Terram se debellaturos,  
Fortium spolia relaturos  
    Nobis in exitium.

Patet ingens fati limen,  
Rapiuntur in discrimen  
    Proceres ac populus.  
Cuius defensoris utor  
Armis? unde in his adiutor  
    Tenebris instantibus?

Vox respondet, vox avorum :  
Quos pertulimus laborum  
    Munus, onus, filiis

Nunc tenendum, nunc ferendum ;  
Hoc non vobis perhorrendum  
Patrium quod agitis.

Dominus per nos potentis  
Ultra fas superbientis  
Bis confregit bracchium ;  
Galli tumor et Hispani,  
Mole corruens immani,  
Factus est ludibrium.

Novum fulgur coruscabit  
Lux antiqua, conturbabit  
Tyrannorum insidias ;  
Stella nobis ipsa lucet,  
Mirabiliter deducet  
Liberorum dexteras.

## TO A CHILD

WITH A COPY OF GRIMM'S MÄRCHEN

NEW-MADE tales are daily told,

New-made songs are daily sung :

These I give you, they were old

When old England's name was young :

Dull are wits that fain would mock

At the wisdom these can teach,

Growth of sturdy German stock,

Heart of homely German speech.

From their roots in ancient soil

Springs the blossom ever bright,

And men ponder it with toil

To count flower and root aright ;

And each oldest word is new

And the far-off story near,

And wise books may prove it true,

But a child can read it clear.



## DIE SYMPHONIEN BEETHOVENS

NEUNMAL sprach das schöpfende Wort der Tönenbeherrscher,

Fasste der Zaubermacht neunfache Kette die Welt ;  
Fasste den Geist, die Natur, die Wonne der heiteren  
Jugend,

Heldenthaten und Tod, Schicksal und Trauer und  
Nacht ;

Bis, durch Menschenstimme gelockt, im entschleierten  
Himmel

Glänzend vom Sternenzelt Freude, die göttliche,  
schwebt.

## A BALLADE OF AUTUMN

TRUSTING the sun, faith seldom erred,  
If Virgil our master's saying be sound ;  
Brave was his triumph, though long deferred,  
Over the storm-clouds that lowered round,  
A leaguer embattled with tower and mound  
For a darkening blight upon tilth and meads ;  
The sun comes forth, and the foe discrowned  
Flies like the fume of the burning weeds.

There was joy upon earth for man, beast, and bird  
When the light laughed clear through the sky's  
profound,  
And we garnered, cheerful and undeterred,  
Wealth that the stormflood had well nigh drowned ;  
But lo, the sun's self in a fatal bound  
Is tethered, and stronger masters heeds ;  
The late-born brightness from air and ground  
Flies like the fume of the burning weeds.

The stars have spoken their ancient word,  
 Against their courses no spell is found ;  
 In the harvest moon's wake the hunt is stirred  
 That Orion leads up with his flaming hound ;  
 His horn for the fall of the year doth sound  
 Points that the poet from old time reads,  
 And the scroll of the summer days unwound  
 Flies like the fume of the burning weeds.

ENVOY

Masters whose mightier notes redound  
 To living splendour of loves and deeds,  
 Scorn not the measure that unrenowned  
 Flies like the fume of the burning weeds.

## LINES ON THE DEATH OF A COLLEGE CAT

THE Junior Fellow's vows were said ;  
Among his co-mates and their Head  
His place was fairly set.  
Of welcome from friends old and new  
Full dues he had, and more than due ;  
What could be lacking yet ?

One said, "The Senior Fellow's vote !"   
The Senior Fellow, black of coat,  
Save where his front was white,  
Arose and sniffed the stranger's shoes  
With critic nose, as ancients use  
To judge mankind aright.

I—for 'twas I who tell the tale—  
Conscious of fortune's trembling scale,  
Awaited the decree ;

But Tom had judged : " He loves our race,"  
And, as to his ancestral place,  
He leapt upon my knee.

Thenceforth in common-room and hall  
A *verus socius* known to all  
I came and went and sat,  
Far from cross fate's or envy's reach ;  
For none a title could impeach  
Accepted by the cat.

While statutes changed, and freshmen came,  
His gait, his wisdom were the same,  
His age no more than mellow :  
Yet nothing mortal may defy  
The march of *Anno Domini*,  
Not e'en the Senior Fellow.

Beneath our linden shade he lies ;  
Mere eld hath softly closed his eyes  
With late and honoured end.  
He seems, while catless we confer,  
To join with faint Elysian purr,  
A tutelary friend.

## ATMAN

### ÉCOLE DU VÉDÂNTA

#### I

Sous mon voile que nul ne perce  
Le nom de l'Infini se tait.  
Dans mon immensité se berce  
Tout ce qui naît, meurt et renaît.  
Je sens passer la vie humaine  
Ainsi qu'un vent dans les roseaux,  
Et je me pare de la chaîne  
Dont les âmes sont les anneaux.

#### II

Les ans tombent au fond des âges  
Sans que je m'en sois aperçu.  
Indra chevauchant les nuages  
Me fait l'effet d'un parvenu.  
Pour moi dans l'éternelle danse

Les jours de Brahmâ sont des pas ;  
J'en sais la fin et la naissance. . . .  
Si ce n'est que je ne sais pas.

## III

Pourtant sur la mer de ce monde  
L'homme dans son essor fatal,  
Nocher aveugle, vogue et sonde,  
Ayant le doute pour fanal,  
Et, doux ou fier, humble ou farouche,  
Dans son image fait son dieu,  
Ne songeant pas que de ma bouche  
Un souffle finirait le jeu.

## IV

Fils de l'homme, veux-tu te faire  
Calme et puissant, ton prêtre et roi ?  
Plane sans crainte dans ma sphère,  
Où l'on ne dit plus *toi* ni *moi*.  
Du secret tu seras le maître  
Que tu cherchais en gémissant ;  
C'est que, pour arriver à l'Être,  
Il faut passer par le Néant.

## V

Quand le désir et l'ignorance  
N'auront plus de tes sens la clé,  
Quand tu verras la différence  
Se fondre dans mon unité,  
Quand de ta raison l'équilibre  
Ne connaîtra ni temps ni lieu,  
Alors tu seras fort et libre,  
Alors tu seras plus qu'un dieu.



## UN ENFANT FIN DE SIÈCLE

JE connais un jeune garçon  
Qui de la plus docte façon,  
Plein de science sémitique,  
S'est fait maître en haute critique,  
Et rend à chaque auteur sa part  
D'après les règles de cet art,  
Suivant exactement la piste  
Du vieux et du jeune Elohiste.  
Il dit : J'ai crânement lavé  
La tête à messire Iahvé.  
Voulez-vous une foi nouvelle ?  
Je vais vous en faire une belle.  
— Je raconte donc, entre amis,  
De mon bonhomme les devis.  
L'un de crier : Horreur ! blasphème !  
Un archange en deviendrait blême.  
— Un autre : O grand et saint Progrès !

Ce cher enfant te voit de près.  
— Je crois pourtant qu'on exagère  
En prenant gravement l'affaire,  
Car m'est avis que l'Eternel,  
Juge à nous tous et sans appel,  
Ayant au fond, soit dit sans schisme,  
Pas mal de pantagruélisme,  
Ne s'occupe de telle gent  
Que pour en rire énormément.  
Aussi ce garçon, je m'assure,  
N'est pas perdu dans la nature,  
Et puisqu'aux yeux de l'Infini  
Rien n'est trop grand ni trop petit,  
Les gloses que tant il estime  
Ont peut-être une part minime  
Dans ce franc rire du bon Dieu  
Que l'homme appelle le ciel bleu.

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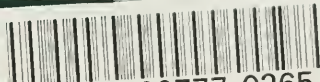
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